

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 853 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GC SHAH

Versus

STATE OF GUJARAT & ORS

Appearance:

MR MEHUL S SHAH for Petitioner

MR HL JANI for Respondent No. 1

None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/11/97

ORAL JUDGEMENT

Heard learned counsel for the parties.

2. The petitioner, an employee of the Director of Employment and Training, Government of Gujarat at Ahmedabad, filed this Special Civil Application and prayer has been made therein for direction to the

respondents to promote him to next higher post and for quashing and setting aside the promotions of respondents No.3 to 10.

3. The petitioner has come up with the case that respondents No.3 to 10 are junior to him in the category of Supervisor Instructor in Industrial Training Institute and they have been given promotions in preference to him.

4. From the averments made in paragraph-5 of the Special Civil Application, it is clear that the petitioner's case for promotion was considered and because of adversity in his service record, he was not given promotion. The respondent No.2 filed a reply to the Special Civil Application and therein it has been stated as a fact that the case of petitioner was considered for promotion but he was not found suitable for promotion to the post of Foreman Instructor for the adversities in his service record as specifically stated in paragraph-4 thereof. The petitioner has only right of consideration for promotion and that right has not been denied to him. Even if the criteria for promotion was seniority-cum-merit, then too, in presence of adversities in the service record the decision of the respondent not to promote him to the post of Foreman Instructor cannot be said to be illegal or arbitrary. The learned counsel for the petitioner has urged that this matter is fully covered by decision of this Court in the case of G.B.Shephard v. State of Gujarat & Ors., given in Special Civil Application No.324 of 1980 decided on 16.6.80, but the facts of that case are clearly distinguishable and that decision is of little help to the petitioner in this case.

5. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

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(sunil)